

February 27, 2013

PUBLIC UTILITIES COMMISSION
Amendments to Construction
Standards, Ownership and Cost
Allocation, and Customer Charges
Rules for Electric Distribution
Line Extensions (Chapter 395)

ORDER ADOPTING AMENDED
RULE AND STATEMENT OF
FACTUAL AND POLICY BASIS

WELCH, Chairman; LITTELL and VANNOY, Commissioners

I. SUMMARY

Through this Order, we adopt changes to the line extension pricing provisions in our recently adopted amendments to Chapter 395. *Order Adopting Rule and Statement of Factual and Policy Basis*, Docket No. 2012-313 (Oct. 22, 2012) (*Order Adopting Rule*). Specifically, we remove the reference to secondary voltage line extensions and add a provision that provides that for large transmission and distribution (T&D) utilities there will be no charge for service drop cable and related items, for up to 150 feet if the customer is located on the same side of the street as the distribution facilities and up to 200 feet if located on the opposite side of the street from the distribution facilities.

II. BACKGROUND

During its 2012 session, the Legislature enacted An Act To Create Fair and Open Competition in Line Extension Construction (Act). P.L. 2011, ch. 484. Section 5 of the Act directed the Commission to adopt rules to implement the provisions of the Act governing the amounts charged by a transmission and distribution (T&D) utility serving more than 500,000 retail customers (referred to as a large T&D utility).¹ The Act specified that the rules adopted pursuant to the Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

As required by the Act, the Commission, on October 22, 2012, issued an Order adopting rule provisions for the development of line extension charges for large T&D utilities. *Order Adopting Rule*. Those rule changes are now in effect.

Subsequent to the issuance of the *Order Adopting Rule*, the Commission received several requests for reconsideration. These requests primarily concerned the provision in the adopted rule (section 10(D)) that specifies that a large T&D utility may not charge customers for secondary voltage electric distribution line extensions. The petitions for reconsideration stated, that consistent with the intent of the Act, the rule should contain provisions for the establishment of secondary line extension charges.

¹ Central Maine Power Company (CMP) is the only T&D utility with more than 500,000 customers.

On November 27, 2012, the Commission issued its Order on Reconsideration in Docket No. 2012-313. The Commission stated that it agreed with the petitions for reconsideration and that this limited issue should be re-examined. Accordingly, the Commission decided to initiate a new rulemaking proceeding to reconsider equitable methodologies for the treatment of secondary line extensions.

III RULEMAKING PROCESS

On December 13, 2012, we issued a Notice of Rulemaking (NOR) and proposed rule that contained changes to the secondary line extension provisions in our recently adopted amendments to Chapter 395. Consistent with rulemaking procedures, the Commission provided interested persons an opportunity to provide written and oral comments on the proposed rule. The following interested persons commented on the proposed rule: Central Maine Power Company, the Public Advocate, Hartt's Electric Service (HES), and Robert Bemis.

III. AMENDED RULE

The recently adopted rule (Chapter 395) added a definition of "secondary voltage electric distribution line extension" (section 1(S)), and included a provision that specifies that a large T&D utility may not charge a customer for a secondary voltage line extension. In *Order Adopting Rule*, the Commission explained its rationale for adopting this provision. Specifically, the Commission viewed charging customers for secondary line extensions as raising fairness issues because the need for such line extensions is often a function of which side of the street the distribution system happens to be located or the height of the poles a utility chose for a particular area. For example, there could be two neighbors on opposite sides of the street with identical houses, including identical driveway lengths and setbacks, and one neighbor would not be charged for a service drop, while the other neighbor would be subject to secondary line extension charges. *Order Adopting Rule* at 5.

The requests for reconsideration of the Commission's adoption of the previous rule generally acknowledged the equity concern, but suggested that the approach used by Bangor Hydro Electric Company (BHE) would be both fair and consistent with the principle of charging customers for the costs that they cause to be incurred. Under this general approach, service drop cable, for which customers are not charged, is provided for up to 150 feet if customers are located on the same side of the street as the distribution facilities and up to 200 feet if located on the opposite side of the street from the distribution facilities.²

The proposed rule contained this approach and, as a result, there would be no need for a specific definition or provisions regarding secondary voltage line extensions.

² BHE does not have a category of work referred to as a secondary line extension.

Thus, they were removed in the proposed rule. In the NOR, we sought comment on a modified approach in which, in addition to not being charged for service drop cable, customers would also not be charged for other related items (such as poles and anchors) that are required (and are located outside the DOT right-of-way) within 150 feet if located on the same side of the street and up to 200 feet if located on the opposite side of the street from the distribution facilities.

CMP commented that it could see a justification for either approach, but would prefer not to charge for items such as poles and anchors that are associated with service drop cables. CMP pointed out that in many circumstances poles and anchors are necessary to maintain clearance when crossing a road and, therefore, not charging for these items would be consistent with a policy of not charging disparate costs merely because of the side of the road on which a customer is located. The Public Advocate, HES and Mr. Bemis commented in favor with the approach in the proposed rule of not charging for service drop cables up to the respective 150/ 200 feet limit, but disagreed that there should be no charge for related items such as poles and anchors. These commenters state that the approach in the proposed rule, which is the approach employed by BHE, is simple to administer and would allow for private contractors to compete with the utility to set the poles and anchors. We agree with the commenters that the BHE approach is workable, promotes competition and places costs on the cost causer. Accordingly, we have not modified the approach in the proposed rule and, as a result, customers will not be charged only for the cost of the service drop cable.

CMP also commented that to treat all customers in Maine fairly and consistently, all utilities should be subject to the line extension charge provision of Chapter 395. As we stated in the previous rulemaking, this rulemaking is the result of legislation directed only to utilities with more than 500,000 customers and should not, therefore be a vehicle to review the line extension pricing policies of other utilities. *Order Adopting Rule* at 3.

Accordingly, we

ORDER

1. That the amendments to Chapter 395, Construction Standards, Ownership, Cost Allocation, And Customer Charges Rules for Electric Distribution Line Extensions, are hereby adopted;
2. That the Administrative Director shall file the adopted rule and related materials with the Secretary of State;
3. That the Administrative Director shall notify the following of the adoption of the amended rule:
 - a. All transmission and distribution utilities in the State;

b. All persons who have filed with the Commission within the past year a written request for notice of rulemakings;

c. All persons who have commented in this rulemaking, Docket No. 2012-00583.

4. That the Administrative Director shall send copies of this Order and the attached amended rule to the Executive Director of the Legislative Council.

Dated at Hallowell, Maine, this 27th day of February, 2013.

BY ORDER OF THE COMMISSION

/s/ Nancy Goodwin

Nancy Goodwin
Acting Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Littell
 Vannoy

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.